

Relative to the Municipal Employees' Retirement System (MERS).

Rollovers

New law defines "eligible rollover distribution" as any distribution made on or after December 1, 1994, of all or any portion of the balance to the credit of the distributee.

New law provides that an eligible rollover distribution shall not include any equal periodic payments, not less frequently than annually, made for the life or life expectancy of the distributee or the joint lives or joint life expectancies of the distributee and the distributee's designated beneficiary or for a specified period of 10 years or more, nor any distribution to the extent such distribution is required under §401(a)(9) of the US Internal Revenue Code, nor the portion of any distribution that is not includable in gross income.

New law defines "eligible retirement plan" as an individual retirement account, or an individual retirement annuity, or a qualified trust, as described in §§408(b), 408(a), and 401(a) of the US Internal Revenue Code respectively. New law provides that, in the case of an eligible rollover distribution to a surviving spouse, however, an eligible retirement plan is only an individual retirement account or individual retirement annuity.

New law defines "direct rollover" as a payment by MERS to the eligible retirement plan specified by the distributee.

New law defines "distributee" as a member of MERS who receives a distribution of funds from MERS, and includes a member or former member. New law provides that a member's or former member's surviving spouse and the member's or former member's spouse or former spouse who is an alternate payee under a qualified domestic relations order, as defined in §414(p) of the US Internal Revenue Code, are distributees with regard to the interest of the spouse or former spouse.

Maximum Benefits

New law prohibits a member from receiving a benefit in any year in excess of the sum of the maximum employer-financed benefit and the member-financed benefit.

New law provides that the maximum employer-financed benefit shall equal \$90,000, except that it may exceed that sum if the excess is caused by adjustments made pursuant to new law. New law provides that the maximum employer-financed benefit for the year 1999, as adjusted, shall equal \$130,000.

New law provides that the member-financed benefit is the annual benefit that can be provided by annuitizing the members after-tax accumulated contributions. Provides that any benefit reduction shall, to the extent possible, reduce the monthly pension to which the member would otherwise have been entitled and shall not affect the member's DROP plan account.

Benefit Adjustments

New law provides that if the annual benefit begins before the member attains age 62, then the \$90,000 limit, as adjusted, shall be reduced in a manner prescribed by the US Secretary of Treasury, and that adjustment may not reduce the member's annual benefit below \$75,000, if the member's benefit

begins at or after age 55, or the actuarial equivalent of \$75,000 beginning at age 55 if benefits begin before age 55.

New law provides that if the annual benefit begins after the member attains age 65, then the \$90,000 limit, as adjusted, will be increased so that it is the actuarial equivalent of the \$90,000 at age 65. New law provides that the \$90,000 limit on annual benefits, but not the \$75,000 limit, shall be adjusted annually as provided by §415(d) of the US Internal Revenue Code and the regulations prescribed by the US Secretary of Treasury to reflect COLAs. Provides that the annual adjusted limit is effective as of January 1 of each calendar year and is applicable to benefits commencing during that calendar year.

New law provides that, as a result of a COLA increase, a benefit that had been limited in a previous year may be increased with respect to future payments to the lesser of the new limit or the amount of benefit that would have been payable without regard to the adjustments provided in new law.

Form of Payment

New law prohibits payment of annual benefits in an amount greater than the member's accrued benefit. Provides that the maximum limit shall apply to a single-life annuity. New law provides that if benefits are paid in a form other than a single-life annuity, the maximum limit shall apply to the pension that is the actuarial equivalent of such single-life annuity, using an applicable interest rate and mortality table as prescribed by the US Internal Revenue Service.

New law provides that the annual benefit limit shall not be reduced for any benefit received as a disability retirement allowance or any payments received by the beneficiaries, survivors, or estate of a member as a result of the death of the member.

New law provides that MERS may still pay an annual benefit in excess of the \$90,000 limit, if the annual benefit derived from the employer contributions under MERS and all other qualified plans subject to the limitations of §415(b) of the US Internal Revenue Code does not in the aggregate exceed \$10,000 for the plan year or for any prior year, and the member has not at any time participated in a defined contribution plan maintained by the employer. New law provides that a member's own contributions to MERS are not considered a separate defined contribution plan maintained by the employer.

New law provides that if a member is or has been a participant in one or more defined contribution plans maintained by the employer, the sum of the member's contributions under MERS and any other qualified defined benefit plans of the employer and the annual additions under the defined contribution plan or plans may not exceed the lesser of 25% of the member's earned compensation or \$30,000, as adjusted by the US Secretary of Treasury.

New law provides that the sum of the "defined benefit plan fraction", and the "defined contribution plan fraction", as those terms are defined in §415 of the US Internal Revenue Code, for any plan year in which §415 of the US Internal Revenue Code is in effect, may not exceed 1.0 for any calendar year in which the limits of §415(d) of the US Internal Revenue Code are in effect and enforced by the US Internal Revenue Service.

New law provides that if the sum of the defined benefit plan fraction and the defined contribution plan fraction exceeds 1.0 in any such year for any member, or if the benefits under MERS and one or more other defined benefit plans would otherwise exceed the maximum employer-financed benefit, and

the administrator of the other plans does not reduce the contributions or benefits under the other plans, the employer-financed benefit paid from MERS shall be reduced to the extent necessary to ensure compliance with the limitations under §415 of the US Internal Revenue Code.

New law provides that if the US Congress or the US Internal Revenue Service, or both, later amend laws, regulations, or other guidelines pertaining to §415 of the US Internal Revenue Code in order to permit higher service retirement benefits, then, for any retired member who had previously had a benefit reduced because it exceeded the prior limits, the MERS Board shall recalculate the retired member's benefit to be the smaller of either: (a) the unreduced benefit based on MER's service retirement benefit formula in effect on the date the member retired, or (b) the maximum permissible benefit calculated under the amended laws or regulations.

New law provides that if a retroactive change is permissible, the MERS board shall pay the retired member in a single payment an amount equal to the difference between the adjusted higher monthly benefit and the reduced benefit for the number of months the member has received the reduced benefit, but that no member shall receive any benefit to the extent that he has received a distribution with respect to such benefit from an excess benefit plan.

New law provides that a distributee may elect, at the time and in the manner prescribed by the board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover, without regard to provisions that would otherwise limit a distributee's election.

IRC Qualification

New law provides that the assets of MERS shall be held for the exclusive benefit of the employees who are or become participating members of the system and their survivors and beneficiaries, and of retirees and their survivors and beneficiaries.

New law provides that the assets of MERS shall not be used for or diverted to purposes other than the exclusive benefit of such members and retirees, or their survivors or beneficiaries, whether by operation or natural termination of the plan, by power of revocation or amendment, by the happening of a contingency, by collateral assignment, or by any other means.

New law provides that the retirement benefit earned by a member shall be fully vested and nonforfeitable no later than the date he becomes eligible to retire, and that the benefits of affected members shall also become vested and nonforfeitable to the extent funded, upon the termination or partial termination of MERS or the complete discontinuance of contributions thereto.

New law provides that forfeitures resulting from a termination of employment or a withdrawal of a member's own contributions may not be used to increase benefits to remaining members, but that this shall not preclude an increase in benefits by amendment to the benefit formula made possible by favorable investment results or for any other reason.

New law provides that a member's benefits shall be distributed, or commence to be distributed, to the member not later than April 1 of the year following the later of the calendar year in which such member attains age 70-½ years or in which he terminates employment, whichever is later.

New law requires that distributions to a member and the member's beneficiary be made in accordance with §401(a)(9) of the US Internal Revenue Code,

including §401(a)(9)(D) thereof relating to incidental death benefits.

New law provides that, except as otherwise provided, payments of death benefits to the survivor of a member who dies before any retirement benefits have been paid shall commence no later than one year after the death of the member.

New law provides that payments on behalf of any deceased member, including lump-sum payments, need not commence within a one-year period if all such payments on behalf of the deceased member are completed within five years after the member's death.

New law provides that if the deceased member's spouse is the sole survivor, benefits to the spouse may begin as late as December 1 of the year the member would have attained age 70-1/2 years had such member lived.

New law provides that if a member dies after retirement benefits have commenced, benefits must continue to be distributed to the survivor at least as rapidly as provided for under the option elected by the member before his death.

New law provides that in the event of a termination of MERS, the benefit of any highly compensated member or former member is limited to a benefit that is nondiscriminatory under §401(a)(4) of the US Internal Revenue Code, and that benefits distributed to any member who was one of the 25 most highly compensated active and most highly compensated former employees of the employer are restricted such that the annual payments are no greater than an amount equal to the payment that would be made on behalf of the member under a single-life annuity that is the actuarial equivalent of the sum of the member's accrued benefit and the member's other benefits payable from MERS. New law provides that these provisions are not applicable if, upon termination of MERS and payment of the benefit as provided above, the value of system assets equals or exceeds 110% of the value of the current liabilities, as defined in §412(l)(7) of the US Internal Revenue Code, or if the value of the benefits for a member as described above is less than 1% of the value of all current liabilities of the system.

New law provides that, for purposes of paying such benefits upon termination of MERS, the term "benefit" includes any periodic income, withdrawals of any value payable to a living member, and any death benefits not provided for by insurance on the member's life.

Excess Benefit Plan

New law creates a separate, unfunded, nonqualified excess benefit plan, intended to be a qualified governmental excess benefit arrangement, as defined in §415(m)(3) of the US Internal Revenue Code.

New law, for purposes of the excess benefit plan, defines the phrase "maximum benefit" as the retirement benefit a member is entitled to receive from MERS in any month after giving effect to R.S. 11:1767 (annual benefit limitations) and any similar provisions of any other qualified plans of the employer designed to conform to §415 of the US Internal Revenue Code.

New law, for purposes of the excess benefit plan, defines "excess benefit participant" as any member whose retirement benefit as determined on the basis of all qualified plans of the employer without regard to the annual benefit limitations and comparable provisions of other qualified plans of the employer would exceed the maximum benefit permitted under §415 of the US Internal Revenue Code.

New law, for purposes of the excess benefit plan, defines "unrestricted benefit" as the monthly retirement benefit a member, or the spouse or child of a member, would have received under the terms of all qualified plans of the employer, except for the annual benefit limitations and any similar provisions of any other qualified plans designed to conform to §415 of the US Internal Revenue Code.

Benefits Payable

New law provides that an excess benefit participant who is receiving benefits from MERS is entitled to a monthly benefit under the excess benefit plan in an amount equal to the lesser of either: (1) the member's unrestricted benefit less the maximum benefit; or (2) the amount by which the member's monthly benefit from MERS has been reduced in accordance with the maximum benefit limitations of new law.

New law provides that a retirement benefit payable under the excess benefit plan shall be paid in the form and at the time it would have been paid as a monthly pension from MERS except that the maximum benefit limitations shall apply in conjunction with §415 of the US Internal Revenue Code, and that each optional benefit form permitted under the excess benefit plan shall be the actuarial equivalent of each other permitted benefit form.

New law provides that the excess benefit plan shall be administered by the board of trustees of MERS and, except as otherwise provided, the rights, duties, and responsibilities of the board shall be the same for this excess benefit plan as for the regular MERS system.

New law provides that the actuary employed by the MERS board is responsible for determining the amount of benefits that may not be provided by MERS solely because of the maximum benefit limitations and §415 of the US Internal Revenue Code and thus the amount of contributions that will be made to the excess benefit plan rather than to MERS, and that the actuary designated shall also provide advice to the board for the excess benefit plan.

Contributions

New law provides that contributions may not be accumulated under the excess benefit plan to pay future retirement benefits. Instead, requires each payment of contributions by the employer that would otherwise be made to MERS to be reduced by the amount determined by the MERS board as necessary to meet the requirements for retirement benefits under the excess benefit plan until the next payment of contributions is expected to be made to MERS by the employer.

New law provides that the employer shall pay to the excess benefit plan, out of the contributions that would otherwise have been made to MERS, no later than the 14th day before the date of each distribution of monthly retirement benefits is required to be made from the excess benefit plan, the amount necessary to satisfy the obligation to pay monthly retirement benefits under the excess benefit plan.

New law provides that the MERS board shall satisfy the obligation of the excess benefit plan to pay retirement benefits out of the employer contributions so transferred. Provides that the employer contributions otherwise required to be made to MERS and any other qualified plans shall be divided into those contributions required to pay retirement benefits pursuant to the provision governing the excess benefit plan and those contributions paid into and accumulated to pay the maximum benefits required under any such other qualified plans.

New law provides that employer contributions made to provide retirement benefits pursuant to the provisions governing the excess benefit plan may not be commingled with the monies of MERS or any other qualified plan, nor may the excess benefit plan ever receive any transfer of assets from MERS.

Effective August 15, 1999.

(Adds R.S. 11:1732(33)-(36), 1767, 1768, 1769, and 1881-1884)